

Will DOL proposal trigger “ratings events”? Too soon to say: A.M. Best

By Editorial Staff Thu, Oct 1, 2015

“The DOL has been receptive to insurers’ concerns and the next proposal could have significant changes,” A.M. Best analysts wrote.

The Department of Labor’s fiduciary proposal isn’t considered damaging enough to trigger “rating events” for life insurance companies—at least not until “there is more clarity on the fiduciary guidelines,” the ratings agency A.M. Best said in a release this week.

“According to the public comments by insurance executives, the DOL has been receptive to insurers’ concerns and the next proposal could have significant changes,” A.M. Best analysts wrote. A final draft of the proposal is expected in late 2015 or early 2016.

After reviewing comments posted by insurance groups on the website of the DOL’s Employee Benefit Security Administration, A.M. Best summarized industry sentiment as follows:

- The insurance industry believes the DOL proposal needs significant changes to make it workable.
- The insurance industry is concerned the regulation, as originally drafted, could limit advice available to small investors, further confuse potential investors and adversely impact the advisor-client relationship.
- Costs associated with making changes to products, pricing and compliance practices including greater systems capabilities and additional staffing, would impact future revenues and further increase compliance costs.
- The proposed definition of a fiduciary is seen as too broad.
- The DOL should narrow the proposed definition of fiduciary investment advice to exclude routine sales activity, including IRA rollovers.
- Insurance companies are recommending a time frame of twenty-four to thirty-six months to comply with the DOL proposal instead of the eight months suggested by the DOL. Compliance will require new disclosures, new marketing materials, new support infrastructure and new advisor training programs.

The Best Interest Contract Exemption part of the proposal has drawn strong objections. The BIC allows brokers to continue to receive commissions on sales to IRA owners, but only if brokers pledge to act solely in the best interest of the client. Today, brokers’ recommendations to IRA owners can be self-serving and need only be “suitable” for a client.

A.M. Best analysts wrote, “Some companies have stated that the BIC Exemption creates

uncertainty while adding unnecessary cost complexity for financial institutions. Primerica classified the BIC Exemption as 'unworkable,' finding the exception 'being so complex and burdensome that it is not administratively or operationally feasible.' There is also concern that the BIC Exemption could expose brokerage firms and investment firms to increased exposure to significant litigation risk."

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